

Message Text

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TO USMISSION USBERLIN

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AMCONSUL FRANKFURT

UNCLAS STATE 155926

E.O. 11652: N/A

TAGS: ETRD, OECD, GW

SUBJECT: ANTITRUST: PROPOSED SETTLEMENT OF SUIT CHALLENGING GILLETTE ACQUISITION OF BRAUN

REF: STATE CA-3589, 11/14/67

1. THE JUSTICE DEPARTMENT HAS ANNOUNCED THAT IT FILED ON JUNE 19, 1975 A PROPOSED CONSENT JUDGMENT WHICH WOULD END A CIVIL ANTITRUST SUIT AGAINST THE GILLETTE COMPANY OF BOSTON, MASSACHUSETTS, CHALLENGING ITS ACQUISITION OF BRAUN AKTIENGESELLSCHAFT OF WEST GERMANY. THE PROPOSED JUDGMENT WILL BECOME FINAL AFTER A SIXTY-DAY WAITING PERIOD AND APPROVAL BY THE US DISTRICT COURT IN BOSTON.

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2. THE SUIT, FILED FEBRUARY 14, 1968, CHARGED THAT THE

ACQUISITION VIOLATED SECTION 7 OF THE CLAYTON ACT BY ELIMINATING BRAUN AS A POTENTIAL COMPETITOR IN THE DOMESTIC SHAVING INDUSTRY AND BY ENHANCING GILLETTE'S DOMINANT POSITION IN THAT INDUSTRY. AT THE TIME OF THE ACQUISITION, GILLETTE WAS THE LARGEST PRODUCER OF SHAVING INSTRUMENTS IN THE HIGHLY CONCENTRATED US DOMESTIC SHAVING INSTRUMENT INDUSTRY AND BRAUN WAS THE THIRD LARGEST PRODUCER AND SELLER OF ELECTRIC SHAVERS IN EUROPE.

3. THE PROPOSED JUDGMENT WOULD REQUIRE GILLETTE TO RESTORE THE DOMESTIC SHAVING INSTRUMENTS MARKET TO THE STATUS WHICH WOULD HAVE EXISTED HAD THE ACQUISITION NOT OCCURRED. TO DO THIS, THE JUDGMENT WOULD REQUIRE GILLETTE TO ESTABLISH A NEW COMPANY IN THE UNITED STATES TO CARRY ON THE ELECTRIC SHAVER BUSINESS OF BRAUN. GILLETTE WOULD HAVE TWO YEARS TO CAUSE THE NEW COMPANY TO BECOME A VIABLE, GOING BUSINESS AND TWO YEARS THEREAFTER TO DIVEST ITSELF OF THE NEW COMPANY.

4. US MISSION REQUESTED TO INFORM DR. E. GUNTHER, PRESIDENT, FEDERAL CARTEL OFFICE, OF THE PROPOSED CONSENT JUDGMENT, MAKING SPECIAL REFERENCE TO THE OECD 1967 NOTIFICATION AND CONSULTATION RECOMMENDATION ON RESTRICTIVE BUSINESS PRACTICES. MISSION MAY REMIND DR. GUNTHER THAT THIS NOTIFICATION SUPPLEMENTS ORIGINAL NOTIFICATION TO HIM (DISCUSSED REPAIR) IN LATE 1967 WHEN THIS CASE WAS IN EARLY INVESTIGATION STAGE.

5. PLEASE REPORT ANY SIGNIFICANT HOST GOVERNMENT REACTIONS. DEPARTMENT WILL INFORM THE MISSION WHEN THE SETTLEMENT IS APPROVED BY THE COURT AFTER THE MANDATORY WAITING PERIOD. INGERSOLL

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